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ABSTRACT

This document contains four papers that address constitutional issues of religious diversity in the schools. The first paper, "Religious Diversity in the Schools--The Overview" (George J. Michel), provides an overview of religious diversity in American public schools, with a focus on the long history of cooperation with Christian churches. It describes the support for religious teaching in the school during colonial times, the evolution versus creationism controversy, obstacles to cooperation between schools and the religious community, and court-generated solutions to school conflict over religion. It is concluded that schools should make positive interaction with religious groups a priority. The second paper, "Religious Diversity in the Schools--Christian Fundamentalism, Educational Reform, and the Schools" (William Gause Smith), describes the actions and agendas of Christian fundamentalist groups pertaining to public education. The third paper, "Religious Diversity in the Schools--The Case of Kiryas Joel" (Dianne Koenig Vickers), describes the case of Kiryas Joel, a Hasidic sect that was allowed to create a new school district. This gave the sect public education funds to educate their special needs children. The paper discusses the legal implications of a separate school district formed for a specific religious group's benefit and related court cases. The fourth paper, "Religious Diversity in the Schools--The Case of Bishop Knox at Wingfield High School" (Elsie Brown), examines court decisions pertaining to conflicts over school prayer and religious devotion in the schools. It also presents results of a survey conducted at a South Carolina high school, which showed student support for daily student-led school prayer over the intercom. Out of 580 students who completed the survey, 386 (67%) were in favor of having a student-led prayer read over the intercom system each morning. (Contains 95 references.) (LMI)

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RELIGIOUS DIVERSITY IN THE SCHOOLS

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Religious Diversity in the Schools - The Overview

George J. Michel

There is a great debate about schooling over whether the schools can or should develop a climate of acceptance and tolerance over students' rights to practice religious activities within the school. (U.S. Constitution, First Amendment). Despite the Constitutional emphasis that separates the religion activities from school activities, the public schools have managed a long history of cooperation with Christian churches from colonial times. (Wright, 1957, pp. 98-125) As early as 1787, the Northwest Ordinance emphasized elements of Christian morality in the schools when the colonial government began setting aside one-sixteenth sections of land in each township to establish and support public schools. It encouraged the teaching of Christian morals to attain those goals, and it specified that good religion, good government, and good schools were necessary for the citizens of the territories. (Peters, 1854, p. 52)

Elements of Cooperation at First

There has been quiet support and even empathy for religious teaching in the school community since colonial times. In 1889, one school community offered religious exercises in the school. The Illinois State Supreme Court upheld a lower court finding that the school board and the teacher were not liable when they expelled a student who was unruly during religious exercises in school. (McCormick v. Burt, 1889)

In the 1940s, it was common practice in some public school communities to allow nonsecular education teachers to teach religion classes to students who would voluntarily chose to be released from secular education classes. All religious denominations were allowed to give

instruction and the salaries of the nonsecular education teachers were paid by the religious denomination. Students who volunteered to attend the religious classes were released from secular education classes. Those students who did not want to followed their studies in the secular education. (Gatti & Gatti, 1983)

In 1948, the cooperation between the schools and the religious community was challenged and rejected as a violation of a parent's First Amendment rights. The U.S. Supreme Court held that the cooperation between schools, churches, temples, and synagogues in Illinois in offering to teach religious classes in the schools was a violation of the establishment clause of the U.S. Constitution. (McCollum v. Board of Education, 1948) Despite the court decisions, there are still opportunities for students to participate in religious activities in the schools within the provisions of the First Amendment before and after school hours, to help teach about the values of many religions, and offer services to other students that the schools cannot offer.

The Beginning of Conflict - Evolution v. Creationism

Christian Fundamentalist groups have been on both sides of the issue of teaching religious principles in the schools. Fundamentalism is defined in the literature of the early 20th century as the religious ideas of eastern protestants. The Fundamentalists believed that their churches strayed from the beliefs in the Bible. These ideas were embodied in the religious orthodoxy taught in the schools in 1927 when the Scopes trial was decided in Tennessee. (Scopes v. State, 1927) The Scopes test was a challenge to the non-secular science curriculum. Science teaching in Tennessee had included only the theory of religious creation. Evolution, the ascendancy of man from lower animals, was not taught in the public schools. Feelings of the Fundamentalist religious groups were so strong against the

theory of man evolving from lower forms of animal life in Tennessee that school laws against the teaching of human evolution were enacted. These laws made it illegal to teach any theory in science that rejected the biblical theory of man as a divine creation. Teacher John Scopes taught that man had evolved from lower forms animals. The state court ruled that he had no right to serve the state except as the state defined it. His teaching of the theory of evolution in science violated the state laws of Tennessee. Mr. Scopes was convicted of violating those laws and was fined $100. (Gatti & Gatti, 1983, pp. 46-47).

Even through 1990s, the issue of creationism in the school curriculum and prayer in school continue to be critical issues in the public schools. A sociological study found that these issues are local within the school districts, and not national issues. However, there are several important characteristics of supporters for incorporating creationism in the school curriculum that may make it a national issue. Supporters of teaching creationism in the schools are found to have lower educational levels than those who oppose it. They are also more religious than non-supporters, and they also tend to support the inclusion of prayer in the public schools. These same supporters are more homophobic, and they oppose providing human sexuality and AIDS information in the schools. (Button, 1992)

Obstacles to School and Religious Community Cooperation

There is significant opposition to cooperation between the public schools and religious community on many issues relating to religion and the schools. Some of the opposition comes from individuals who claim that school community involvement in any religious activities is a violation of the First Amendment. Opposition to cooperation with the religious community also comes from the federal government. There are instances when

both the government and the courts have opposed such cooperation. In several federal programs, however, there is implicit if not explicit cooperation between the government, school community, and the religious community.

One such instance of politically induced cooperation occurred in a program to provide funding to improve the quality of education for poor and disadvantaged students in the 1960s. Approval of the Elementary and Secondary Education Act of 1965 was blocked by several religious issues involving the poor. Not the least of these was the Catholic Church's demand to obtain government assistance for the thousands of poor children served by Catholic schools in urban areas. Specifically, the political problems for President Lyndon Johnson and his staff were how to provide federal assistance to the poor children attending Catholic schools and comply with the prohibition against state and church entanglements. It was rumored that President Lyndon Johnson ordered four of his staff into a conference room in the White House Office Building and told them not to emerge until they had resolved this obstacle to the passage of the ESEA bill. The bill was the most important effort for massive federal aid for educating poor and disadvantaged children. (Reedy, 1973) Twenty-four hours later, Johnson's staff emerged from the conference room with the concept of the child benefit theory applied to education. The child benefit theory allowed for federal aid to follow each needy individual child to whichever school the child attended, public or private. With the child benefit theory, the Johnson administration was able to secure the endorsement of the Catholic Church so that federal aid could be obtained for children attending private and parochial schools. (Michel, 1985)

Court-Generated Solutions to School Conflict over Religions

Another area cooperation between church and state is where the courts have effected a compromise is the area of students' First Amendment rights. In an effort to permit students to exercise their religious freedom, the U.S. Court of Appeals for the Ninth District ruled the state law prohibiting religious meetings on school grounds was unconstitutional. In 1984, several students attending Lindbergh High School in Renton, Washington asked permission to form a religious club and to meet on the high school campus. (Garnett v. Renton School District 403) School officials denied the request explaining that the laws of Washington state did not permit religious meetings on public school grounds. The students sued the school district claiming that their rights to exercise their religion were denied both by the U.S. Constitution and the state constitution. In 1989, the case was heard on appeal in the Ninth Circuit Court. The court supported the lower court ruling that the First Amendment prohibited the school officials from aiding any group in establishing a religion on a school campus. However, one year later in 1990, the U.S. Supreme Court reversed that decision and sent the case back to the federal district court for reconsideration. (Schmidt, 1993) In another instance where students requested the use of school facilities for religious activities, the Supreme Court supported the students. In Mergens, the Court again emphasized that community groups as well as student groups should have equal access to school facilities. (Westside Community Schools v. Mergens, 1990) A student at Westside High School requested the use of a classroom to worship. She was denied the use of the facilities. However, when the case was reviewed by the Supreme Court, Justice Sandra Day O'Connor wrote that if the school granted the use of classrooms to other groups for purposes outside its

curriculum, then the student's request to use the classroom to worship could not be denied. (O'Reilly & Green, 1992, pp. 49-50)

The Religious Community and Access to Programs

The cooperation between the religious community and the federal government is a very different issue when it concerns the civil rights of teenage women who are pregnant. Religious groups presented a legal challenge to the Adolescent Family Life Act of 1981. The Act provided nearly $8 million for the prevention of teenage pregnancy. The act permitted grants to a public or private school, a church, or other agency. Projects were funded to provide programs in counseling, education, or medical services to prevent pregnancies among teenagers, but they were not allowed to provide advice on abortion. In 1988, the Department of Health and Human Services funded 57 programs in thirty states. In self-reports, the grantees indicated that 47 percent, or 27 of the programs, had religious affiliations. (Portner, 1993)

Under an out-of-court settlement of the issue in January 1993, the Department of Health and Human Services promised the grantees that programs would not promote religious doctrines. The settlement also prohibits programs from being offered in church affiliated schools during regular school hours, or in churches, or in any rooms intended for worshipping. (Portner, 1993)

Conflict between the government and citizens over interference with a person's right to exercise religion is an issue sent to the Congress. In 1993, a bill to make it more difficult for the government to interfere with a person's free exercise of religion was introduced in the U.S. Senate. It was introduced to reverse the 1990 decision of the U.S.

Supreme Court in Employment Division v. Smith. The Smith decision held that the State could enforce anti-drug laws on religious groups without violating the group's right to free exercise. The decision made it easier for the government to restrict religious practices that violated federal laws related to drug use. Organizations on both sides of the religious freedom issue expressed concerns that the bill would do more harm than good to the solution to the problem between the government and the religious community over religious expression. (Walsh, 1993a)

The same issue was also put before the U.S. Supreme Court when it accepted a case involving a community of Hasidic Jews located about forty miles northwest of New York City. (Board of Education of the Kiryas Joel Village School District v. Grumet - Case No. 93-517) The community, called Kiryas Joel, has a population of 12,000 who belong mostly to the Satmar Hasidic sect. Sect members speak Yiddish, wear distinctive clothing, and do not watch television. They send their children to private, sex-segregated schools in the village. However, the parents in the community cannot afford to provide the needed services for handicapped children from the community. In 1977, when the community was established, public school teachers from the nearby Monroe-Woodbury School District provided services for the handicapped Hasidic children in the community's religious schools. In 1985, the practice was stopped by a U.S. Supreme Court decision preventing public school teachers from offering remedial instruction on the sites of religious schools. Some handicapped children from the Kiryas Joel community were then sent to the schools in the Monroe-Woodbury School District to receive special education services. However, the Hasidic children were traumatized by their experiences in the public schools, and the Monroe-

Woodbury School District refused to provide special education services to a neutral site within the Kiryas Joel community. The state passed a legislative bill allowing the Kiryas Joel community to create a separate school district for the handicapped children from the community. The special school district serves 220 handicapped children from the community including some children who are not from the Hasidic sect. It provides the full range of services in one school with assistance from the federal government. In 1990, the state law that established the Kiryas Joel district was challenged by the New York State School Boards Association. The association argued that the law violated both the state and federal constitutions, and the New York courts agreed. Using the Lemon test, of secular purpose, no inhibition to religion, and no excessive entanglements, the New York State Supreme Court found that the special school district violated the three pronged tests of Lemon (Walsh, 1993b)

Christian Fundamentalism, Educational Reform, and the Schools

During the 1990s, Christian Fundamentalists grew in numbers and intensity. Gabriel Almond, a professor of political science who studied the influence of Fundamentalism, says that the reemergence of Fundamentalism amounts to a reaction against the modern, secular world and technology. While the major religions have declined in the U.S., the ratio of churchgoers to non-churchgoers has not changed in the last thirty years. Mainline religious denominations like Episcopalians, Presbyterians, Lutherans, and Methodists are in decline. However, the more militant evangelical and Pentecostal denominations have increased in numbers. Almond says that "it's the intensity of their feelings that count." There are more Fundamentalists that are willing to fight for religious causes in the schools. (O' Toole, 1993)

Far from working cooperatively with it, national religious groups have become increasingly negative toward the school community. School observers believe that several Fundamentalist groups are working to discredit the public schools, and they have mounted pervasive attacks to dismantle the public schools. They have engaged a systematic media campaign and altered their goals to focus on returning to Christian-based public education. They distribute newsletters and television programs that advocate becoming teachers, getting involved in school decisions, and running for school board elections.. They want their members to advocate the Bible as the primary source of teaching values. (Jones, 1993)

School groups report that today' s assaults from these groups are different from those in the past. Instead of the isolated, local confrontations of the past, the religious groups have mounted what have been called well-organized, broadly based cultural wars. The religious objectives of these confrontations are to control the public schools. The main groups identified as the protagonists are the Christian Coalition headed by former presidential candidate and television evangelist, Pat Robertson; the Citizens for Excellence in Education (CEE) with executive director, Robert Simonds; and Focus on the Family based in Colorado Springs. (Jones , 1993)

The American School Board Association (ASBA), reported the objective of these religious-political groups in several sections of the nations is to undermine current programs of educational reforms suchas outcomes-based education. This self-proclaimed objective is to prevent the state from supplanting family values with state values and revisit the evolution vs. creationism controversy in the science curriculum. (American School Board Journal, 1993)

Christian conservatives are using Evangelical and Fundamentalist churches for

organizing, training, and communicating with their members on these issues. They are using direct mail and television fund-raising. Some groups have been successful in gaining control of the Republican Party in the states oft Iowa, Virginia, South Carolina, Texas, Pennsylvania, and much of the South. Since the end of 1991, Television Evangelist Pat Robertson's Christian Coalition has been campaigning for mixing politics and religion. The Coalition has chapters in every state with more than 400,000 contributing members. It has picked some of the most divisive political issues such as abortion, homosexuality, sex education, censorship, pornography, and school prayer. Besides the focus on state-wide politics, other targets of the Christian Coalition are typically local political elections, libraries, and school board elections. (King, 1993)

In Pennsylvania, a Fundamentalist religious group called the Citizens for Excellence in Education (CEE) is involved in stopping the state-wide educational reform called outcomes-based education. Pennsylvania's outcomes-based education program requires the students to master fifty-five academic and non-academic goals in ten subjects before graduating from high school. The CEE disputes the non-academic goals dealing with personal living, family values, racial harmony, and cultural harmony. ("Religious Right Targets,"1993)

The CEE fought the Pennsylvania plan for outcomes-based education by producing videotapes, newsletters, and a 900 telephone number to announce the dates of protest meetings. In the media blitz it created, CEE was criticized for deliberately misleading their members by claiming that outcomes-based education included teaching about homosexuality and New Age religion. Neither of these elements is included in the Pennsylvania proposal for

outcome-based education. However, information and misinformation circulated by the CEE has been very effective in developing opposition against this Pennsylvania educational reform. Opposition to the plan also has been taken up by a state legislator from Allegheny County who uses his legislative newsletters to oppose sex education, homosexual lifestyles, and the use of condoms by high school students. Critics say the CEE campaign and the legislator's attacks only provoke fear in parents and citizens over educational change. On the other hand, officials of the CEE defend their opposition to outcomes-based education by calling it a great spiritual battle for the public schools. (American School Board Journal, 1993)

In California, the CEE won national attention in 1990 when its candidates won surprise victories on the San Diego County Board of Education. However, some of the candidates hid their ties to the religious group. The president of CEE , Robert Simonds, said that Christian control of all local school boards is a stated goal of the religious-educational organization. Simonds claims the CEE has 3,000 sympathetic school board members. (King, 1993, September 18)

The Religious Community and Patriotism

Another difficult area to encourage cooperation between the school and religious communities has been in patriotic ceremonies. The incidents in nearly all cases involving students' rights to exercise religious preferences and subordinate patriotic expression occur in the schools. The basic educational issue involves the methods and the means that the schools use to separate religious exercise from the school curriculum. Schools have not cooperated with churches in permitting the expression of religious ideals and patriotism

demonstrated by saluting the flag. Manwaring reported that religious opposition to the flag salute in the 1940s touched off very bitter court battles over constitutional freedoms (Manwaring, 1962, pp. 3-10) The two leading cases in the First Amendment area are Gobitis and Barnette.

The first case involved Walter Gobitis, a member of the Jehovah's Witnesses who had instructed his children not to salute the flag in school. (Minersville School District v. Gobitis, 1950). Saluting the flag in the Minersville, Pennsylvania schools was a tradition supported by state law, and the Minersville school superintendent required both teachers and students to participate in the flag salute ceremony. The Gobitis children refused to salute the flag. As Jehovah's Witnesses, the Gobitis family believed that the flag salute was prohibited by a commandment from the Bible. Gobitis brought an injunction against school officials to stop the children's expulsion from school. In the Supreme Court decision on the case, Justice Frankfurter found that freedom of religion did not relieve the children from obeying the laws to salute the flag.

Three years after Gobitis, the Supreme Court heard another Witnesses' claim that a compulsory flag salute was in violation of their First Amendment rights. (West Virginia State Board of Education v. Barnette, 1943). This case involved a flag salute resolution that had been adopted by the West Virginia State Board of Education. The resolution specified that children who did not salute the flag would be expelled from school and their parents would be charged with contributing to the delinquency of minors. In this instance, the decision of the Court supported the First Amendment rights of the Witnesses. It recognized that the flag salute was a symbolic expression of loyalty; however, it disagreed that being silent during the

flag salute ceremony was a danger to the national security.

One of the obstacles to resolving this conflict between the school and the religious communities has been the conflicting decisions of the U.S. court system. In the first half of the 20th century, the courts decided against students who refused to salute the flag on religious grounds. In the latter half of the century, however, if a student refused to salute the flag as a matter of free speech, then the courts decided for the students. One example of the difference in judicial treatment concerns a high school honors student who refused to salute the flag, to stand quietly, or to leave the room during the flag salute ceremony. (Goetz v. Ansell, 1973) The student's objection to the flag salute was based on his disagreement that the Pledge of Allegiance represented equal justice to all citizens of the U. S. Recognizing the student's right to freedom of expression, the court did not permit the school board to infringe upon those students' rights.

There also were differences in the judicial decisions involving the pledge of allegiance in school. A father and his son were avowed atheists. They challenged the school 's daily recitation of the Pledge of Allegiance on religious grounds. For many years, the case in Lemon was the primary tool used by the court to assess the entanglement of school related activities with religious activities. (Lemon v. Kurtzman, 1971) The three-pronged test was generated to explain the government's position on aid to religiously sponsored schools. The Lemon test has three criteria: (1) regulations must have a secular purpose, (2) regulations must have a primary effect that neither advances nor inhibits religious activity, and (3) regulations must not foster excessive entanglement between government and religious activity. (Gatti and Gatti, 1983, p. 275) Using the three-pronged

Lemon test, the Court found that the Pledge of Allegiance posed no threat to the plaintiffs' free exercise of religion. Although there is no doubt that the religious beliefs of students should be protected, the definition of students' rights to religious freedom still seems unclear. (O'Reilly and Green, 1992, pp. 211-229)

Still another dimension of the difference in judicial treatment was raised in the burning of the U.S. Flag during the Republican National Convention in Dallas, Texas in 1984. A protestor burned the American flag during demonstrations against the Reagan administration. The Texas court convicted the demonstrator of desecrating a venerated object, sentenced him to one year in jail, and fined him $2,000. The conviction was reviewed by the U.S. Supreme Court that found that the protestor was burning the flag as expressive conduct under the First Amendment. Because it happened after a political demonstration, the Court also asserted that the state of Texas could not convict the protestor to suppress nonexpressive speech harmful to the national flag (Texas v. Johnson, 1989). In a public school setting, the issue in flag burning as expressive conduct is dependent on whether burning the flag is disruptive. As a political protest, it may be protected, or it may be in violation of state regulations that students have a safe school environment.

In a quarter century of litigation involving students' rights of free expression over the flag salute, the courts have provided some clear guidelines and some not so clear for school officials. The standard of disruption of the learning process in Tinker appears to be the outer limit of student expression. (Tinker v. Des Moines Independent Community School District, 1969) The school has the authority to control free expressions of students when it involves substantial disruption of the educational process. However, the school's control of student

expression, even this most disruptive variety, must be tempered by good reasoning and fairness. These same standards also must be applied in relation to students' rights to political dissent and written expression. (Grayned v. City of Rockford, 1972)

Students and Freedom of Religion

There are issues between the school community, the religious community, and the parent community where compromise and cooperation resolved several of the issues over students' rights for a short time, but the issues rise again and again to promote bitter conflict. One of those is the students' First Amendment rights to exercise religion in their school facilities. In West Virginia v. Barnette, the Court said that the State required members of the Jehovah Witnesses' faith to communicate loyalty to the United States when that was clearly against the practices in the Witness' religion. It was clear in Barnette that the government could neither compel nor prohibit a student from doing something required by his religion (West Virginia v. Barnette, 1943)

Over four decades later, the issue again came to litigation involving prayers at graduation ceremonies. In Providence Rhode Island, the graduation ceremonies at some of the public schools always included invocation and benediction prayers. The school principals used their discretion to invite members of the clergy to participate in these invocations . In June 1989, at the graduation ceremony for Nathan Bishop Middle School, the school principal selected a rabbi to give the prayers. The principal gave the rabbi a pamphlet entitled " Guidelines for Civic Occasions"endorsed by the National Conference of Christian and Jews and advised the rabbi that the prayers should be nonsectarian. When the rabbi delivered the prayer and the invocation, they were inclusive and non-sectarian praising

the diversity in America and they thanked God for the judicial system that provided justice for all. A parent whose daughter was in that graduating class filed suit in federal court seeking a permanent injunction against invocations and prayers at graduation ceremonies. The trial court applied the three-pronged Lemon test and found that the recitation of prayers and invocations by the clergy at graduation ceremonies violated the First Amendment's Establishment Clause. (Zirkel & Gluckman, 1992) When the school district appealed the decision of the trial court, the First Circuit Court of Appeals affirmed the lower court ruling. On reviewing the case, the U.S. Supreme Court upheld the finding of the lower courts. In a 5-4 decision , the Court made it clear that having the clergy deliver an invocation or benediction at a public school graduation ceremony is a violation of the Establishment Clause of the First Amendment. (Lee v. Weisman, 1992)

As has already been pointed out, court decisions about the religious freedom for students show a certain dynamism and uncertain results. Several times, the court decisions seemed to promote further conflicts between the religious community and the school community. The issue of the court decisions on prayer in graduation ceremonies promoted bitter conflicts between groups that supported the prayer and groups that did not. In Jones v. Clear Creek Independent School District (Case No. 92-1564), a Texas school district developed a policy permitting the senior class to decide on student-led prayers at its graduation ceremonies. After a challenge by two students, the U.S. Court of Appeals of the Fifth District ruled in November, 1992 that the school district policy did not violate the First Amendment, nor did it conflict with an earlier decision in the Lee decision. In Jones, the court found that student participation in the decision evoked less psychological pressure and

the students did not feel coerced by the prayer at graduation because it represented the will of their peers. On the other hand, the decision in Lee was made by the principal and the prayer was recited by a rabbi, both possessing formidable power to coerce student participation in the prayer psychologically. (Walsh, 1992)

An incident involving religious expression of students occurred in 1993, in a high school in Jackson, Mississippi. The principal of Wingfield High School allowed students to read prayers over the school intercom system three times in November. A vote had been taken in the high school, and the students voted in favor of having student-led prayers by 490 to 96. The school board dismissed the principal on the basis that his permission to broadcast student prayers was a violation of the First Amendment prohibition on establishing a religion. Later, the school district's attorney denied that the principal had been fired for allowing school prayers. The attorney said that the principal's dismissal was based on insubordination and neglect of duty. The students in the high school protested by walking out of Jackson's high schools and middle schools for several days. The students who walked out of the schools avoided being suspended from school because of intervention of a public interest legal organization headed by television evangelist Pat Robertson and the Christian Coalition. The principal defended his decision based on a U.S. Supreme Court decision allowing student-initiated and student-led prayers at high school graduation ceremonies. The incident caused national media attention to be focused on the issue of prayer in schools. The governor of Mississippi appeared at rallies in support of the principal and students' religious freedom. Several state lawmakers are following the incident by proposing to cut state funds from school districts that prohibit voluntary prayers by students. American Civil Liberties

Union supported the school district by stating that the rights of at least 96 students who voted against the student-led prayers were violated. (Walsh, 1993c, December 15)

There have been claims from the parents that the schools violated the rights of children to exercise their religious beliefs in the decisions in Barnette and Lemon. In Tennessee, some school children and their parents brought suit against the Hawkins County Board of Education. (Mozert v. Hawkins County Board of Education, 1987) The group of parents belonged to different religious denominations, but all of them considered that they were "born again christians." They asserted that the Holt, Rinehart, and Winston basic reading series adopted by the Board of Education taught critical thinking skills and values that were repugnant to the religious beliefs and attitudes of their children. The plaintiff parents identified passages with futuristic supernaturalism, human creativity of the mind, occult practices, imagination, evolution, role reversal, and successful businesswomen. They asserted that their children were exposed to other values, feelings, attitudes, and other forms of religion that contradicted their religious views. (Campbell, Cunningham, Nystrand & Usdan, 1990, pp. 355-356)

Seeking Cooperation from the Religious Community

If schools are to develop cooperation among different religious groups over the religious freedom of students, collaboration among all of groups will be essential. Developing cooperation with religious groups has been difficult through the history of the public schools. Creating new, positive interaction among the religious groups should be the primary objective of the schools. Scales pointed out there are common areas of high concern to both schools and religious groups. (Scales, 1993) He believes that the common

goals of both the school community and the religious community are:

1. Responsible, sexual behavior among young persons.
2. Students who deal effectively with alcohol and drugs.
3. Good health habits for children.
4. Good, enduring, and trusting relationships.
5. Good, honest children with integrity.
6. Children with knowledge of their ethnic and religious heritage.
7. Effective teaching of science.
8. Prevention of sexually transmitted diseases/HIV virus/AIDS among young people.
9. Instilling sound family values among young people.
10. Religious freedom for children.
11. Appropriate religious uses of the schools. (Scales, 1993)

Regardless of the differences between the schools and the religious groups, responsible parties from both religious community and the school community should and can begin to debate and discuss the areas in the public school curriculum where there is already strong agreement.

Religious Diversity in the Schools - Christian Fundamentalism, Educational Reform, and the Schools

William Gause Smith

The focus of this paper will be on several of the best known Christian fundamentalists - whose influence is felt not only in the realm of religion, but in educational reform. The first of these is Jerry Falwell, the founder of the now defunct Moral Majority, The Liberty Foundation, and Liberty University. He is also the founder and host of the Old Time Gospel Hour. The second is Pat Robertson, Founder of Regent University, and host of The 700 Club with over seven million viewers weekly. The third and fourth included in this paper are the Citizens for Excellence in Education (CEE) with executive director, Robert Simonds, and Focus on the Family based in Colorado Springs. (Jones, 1993)

Fundamentalism is a movement in American Protestantism that arose early in the 20th century in reaction to modernism stressing the Bible in matters of faith and morals and as a literal historical record and holding as essential to Christian faith belief in the virgin birth, physical resurrection, and the Parousia. Fundamental education for peace and justice should address three major topics:

(1) The person (nature and character, potential or vocation)

(2) The person in community (institutions, order,and justice)

(3) The person in culture and history (underpinnings for the conceptions and practices of institutions).

A 1982 study of the meaning of fundamental education concentrated on interviewing over 300 lay citizens, pastors, and educators in small, rural communities in upstate New York and Vermont and yielded five major findings. First, little oversight or regulatory capability

existed to control the fundamentalist school movement. State level governance boards "trusted" local fundamentalist schools to their own actions. Second, diverse fundamentalist schools were localized phenomena with no overall coordination as a socio-political movement. Third, fundamentalist forms of schooling were a policy phenomenon of the 1970's and did not have a long history or strong ties to any well-organized regional or national effort. Consequently, personal preferences were acted upon and personal commitment to the schools was high. Fourth, the fundamentalist purpose seemed to relate the Christian spirit to vows of personal and collective poverty for the school community. Fifth, fundamentalist schools rejected direct public subsidy, but frequently relied on practices that constituted indirect public subsidy (Johnson & Wiles, 1982)

Today's influence by religious fundamentalists is different from the past. Instead of the isolated local confrontations of the past, these religious groups have mounted well-organized, broadly based disputes over cultural and family values. One of the objectives of these confrontations is to control the public schools. The main groups identified as the protagonists are the Christian Coalition headed by Pat Robertson and administered by Ralph Reed. Reed, executive director of the Christian Coalition, has made the coalition into the most potent unit within pro-family movement. Their goal is to give the movement a gentler, more catholic visage. Another group, the Citizens for Excellence in Education (CEE) capitalizes on low-turnout school board elections to elect fundamentalist school board members. It vows to control every school board in the country, and turn schools back to a Christian agenda. Robert Simonds, the executive director of CEE, is actively campaigning for the private school voucher initiative. Members and

supporters of the National Association of Christian Educators and Citizens for Excellence in Education are also soliciting supporters for the school choice initiative. Simonds claims that occult practices are taking place in public schools. Two competing myths or narratives that undergird efforts of the religious fundamentalists in politics and education are the Remnant Myth and the Ashan Myth. The Remnant Myth asserts that God will bless America if a righteous minority maintain their standing with God. The Achan Myth casts the righteous as the moral majority held responsible for the wicked minority they tolerate in their midst. (Stanley, 1992).

According to Stanley (1992), the reasons that religious fundamentalists like Pat Robertson have mounted the efforts in politics and education is because of the changes in the narrative myths that guide the movement. These changes were brought about by a struggle between the Remnant Myth and the Achan Myth for defining the role of the fundamentalist movement. Robertson championed the Achan Myth and adapted it to the local primary level in his bid to capture the GOP nomination. Stanley (1992) concluded that he introduced rhetorical and campaign strategies previously untried in the political arena and challenged the ongoing story of America's efforts to mix politics and religion at a pragmatic and mythic level. Robertson proved unable to distance himself from the image of a televangelist or broaden his appeal beyond his natural constituency. Consequently, he lost his bid in national politics. (Stanley, 1992)

Pat Robertson and the Christian Coalition

By far, Mr. Pat Robertson is considered the most influential of the leaders of the religious fundamentalists. Mr. Robertson is known as a founder of televangelism and his

influence extends into news, entertainment and politics. (Fineman, 1993) He is founder of the Family Channel to which over 58 million households subscribe. He also founded the Christian Broadcasting Network and the American Center for Law and Justice (ACLJ), and the Christian Coalition, satellite media distribution services. Mr. Robertson has access to 578 radio stations under contract to receive his radio news network and FAX news service.

Pat Robertson now presides over a multifaceted, synergistic operation worth over one billion dollars (Fineman, 1993). Robertson has created a set of institutions to battle what he regards as a godless liberal establishment. His Regent University trains "born-again "broadcasters, educators and lawyers,as well as ministers. It has an endowment of Robertson's corporate stock worth $200 million. His Regent University lawyers run his American Center for Law and Justice (ACLJ) - designed to be the religious right's answer to the ACLU. After his run for the GOP nomination he created the Christian Coalition, a political lobbying group that now claims 850 chapters and more than 450,000 dues-paying members--the fastest growing organization of its kind on the right. Though the Christian Coalition is headed by Robertson and bears a sectarian name, Reed and Robertson search for any high-profile common cause they can make with Catholics and even Orthodox Jews in New York City's school-board races last spring, their group distributed thousands of "voter education" pamphlets in Catholic churches an unprecedented, on-the-ground alliance it is trying to duplicate elsewhere. (Fineman, 1993) Although he is focused on the grass roots for now, Robertson and his flock have not forgotten presidential politics. With no clear candidate for 1996, the GOP's race has not been this open for a generation--making the Christian Right's support that much more pivotal. Nearly every would-be contender showed

up to speak at a recent Christian Coalition gathering in Washington. While Robertson himself makes no noise about running in 1996, he says that there may be in some horrible catastrophe come 1999, and that close to the millennium, he could not rule out answering the call.

Jerry Falwell and the Moral Majority

Jerry Falwell, on the other hand, represents religious fundamentalism differently from Mr. Robertson. Falwell's attempts to combat anti-Christian sentiments, however, are very similar to those of the early church. Mr. Falwell reflects on a perceived rise of anti-Christian bias across America. Efforts by Mr. Falwell and other leaders to battle prejudice against Christian fundamentalists seem to have met with limited success. Falwell, in addition to filling his role at the Thomas Road Church in Lynchburg, Virginia, also continues his leadership of Liberty University and his television ministry. When he led the Moral Majority, an organization of conservative Americans, he spoke for such educational reform issues as school prayer and anti-abortion legislation as it affected teenagers and women. Mr. Falwell's fundamentalism draws upon the heritage of American Revivalism, with its code of personal piety. Doerr (1991) found that in financial educational reform, Falwell and the other religious groups joined in their attempts to encourage federal financial aid to private and parochial schools. In this trying to reform the finances in education, Doerr predicted that if this issue reached the U.S. Supreme Court, the religious fundamentalists may be successful if there is a change in interpreting the First Amendment separation between church and state over the schools. (Doerr, 199l) Falwell saw his job as saving America from its own decadence through grass-roots activism. (Bouchier, 1990) In August of 1989,

the Reverend Falwell announced the closing of the Moral Majority's office in Washington that brought a ten-year mission in national politics to an end. He claimed that the work of the Moral Majority was complete and that he sought to increase involvement of Christians in the political process. The organization played an important role in energizing the Religious Right. Its primary focus was on church and school relations. The Moral Majority's support for President Ronald Reagan, President George Bush, and the Republican party, helped shape the platform for the party. (Steinfels, 1989) Shortly after he announced the disbanding of the Moral Majority, Falwell changed the name of the organization to the Liberty Foundation. It continues to operate in the fundamentalist interests in politics, education, and religion. ("Falwell's New Lobby," 1986)

Mr. Falwell has a history of litigation in his attempts to establish and support a fundamentalist Christian university. The controversy is over Liberty University's proposed issuance of tax-free bonds to purchase its campus from Falwell's 'Old-Time Gospel Hour Ministry.' The 'Old Time Gospel Hour' is the current title holder of the property, and probably will lead the litigation on the proposal.

The state of Virginia's Council of Higher Education has decided to continue its financial aid to Liberty University. The Council has voted that students at Liberty University could continue to receive state financial aid only if the college ensures that students and faculty members no longer needed to comply with certain religious practices. The concern was over required attendance at religious services and convocations. Liberty University succeeded in obtaining a $60 million tax-free bond issue based on the assumption that the school was a liberal arts institution, and not a religious one. ("Falwell's School," 1990) In a unanimous

decision. the Virginia State Supreme Court found that it would be unconstitutional for Liberty University to use government bonds to finance campus construction projects. This decision was based on the pervasiveness of religion at the school. Liberty University did not appeal the court's decision. (Blumenstyk, 1991)

In 1993, Falwell returned to the political arena. Mr. Falwell accused the Democratic presidential candidate, Bill Clinton, of 'misquoting and manipulating the Holy Scripture for political purposes.' According to Falwell, Clinton's call for a 'new covenant' bordered on blasphemy. Falwell believed that Clinton had a long history of using and abusing religious passages in U S politics. (Bowermaster, 1 992) Mr. Falwell's success was marked by several Republican Party endorsements. He received help from many fundamentalist pastors who shunned politics, but opened their churches for massive voter registration drives.

Falwell's influence over American education is formidable. In a broadcast on his 'The Old Time Gospel Hour' Falwell returned to the issues involving fundamentalism, educational reform, and the schools. ("Falwell Returns," 1 993) The Liberty Foundation, an umbrella group formed by Falwell, now speaks as a strong public relations voice for the fundamentalist religious movement. It was designed to appeal to fundamentalist Christians seeking to find answers to the eroding moral base. ("Falwell's New Lobby," 1 986) Equal parts pastor and politician, the Reverend Falwell also had some failures especially when it came to administering the scandal-ridden PTL (Praise The Lord) ministries. PTL suffered with a sex and money scandal and the forced the resignation of its leader, Jim Bakker. As televangelist himself, Falwell stood to lose financially when PTL failed. ("At the Helm," 1987). With the Moral Majority, Liberty University, and the PTL ministries, Falwell had

the potential for increased fame as a televangelist; however, PTL never recovered, and was sold several times. (Alter & Thomas, 1987). Falwell's accomplishments with Christian fundamentalism placed school reform at the forefront of televangelism. The exit of Falwell ended the initial era of the Religious Right and quickens speculation on its prospects in the next phase in which he emerges as durable political influence. (Ostting, 1987) In a prefabricated annex of the Fellowship Bible Church, near the chicken coops and bungalows in the Ozarks of northwest Arkansas, a young man named Ralph Reed is preaching the gospel of politics. As director of Pat Robertson's Christian Coalition, Reed has come to Rogers, Arkansas to instruct evangelical Christians in the mysteries of winning elections Christian fundamentalists must have patience and drive to work for victory "This isn't a sprint," says Reed "it's a marathon." (Fineman, 1993)

Citizens for Excellence in Education.

In Pennsylvania, a Fundamentalist religious group called the Citizens for Excellence in Education (CEE) is involved in stopping the state wide educational reform called outcomes-based education. Pennsylvania's outcomes-based education program requires the students to master fifty-five academic and non-academic goals in ten subjects before graduating from high school. The CEE disputes the non-academic goals dealing with personal living, family values racial harmony, and cultural harmony. The CEE fought the Pennsylvania plan for outcomes-based education by producing videotapes, newsletters, and a 900 telephone number to announce the dates of protest meetings in the media blitz it created, CEE was criticized for deliberately misleading their members by claiming that outcomes-based education included teaching about homosexuality and New Age religion.

Neither of these elements is included in the Pennsylvania proposal for outcome-based education. However, information and misinformation circulated by the CEE has been effective in opposing Pennsylvania educational reform. Officials of the CEE defend their opposition to outcomes-based education by calling it a great spiritual battle for the public schools. (Jones, 1993)

Accelerated Christian Education

Another effort by Christian fundamentalist groups in education is the privately funded Accelerated Christian Education schools (ACE). ACE schools provide an alternative to state-supported and other church schools. It began in the United States, but the growth of ACE schools on the Australian continent has been rapid. In 1977, there was only one ACE school in Australia, but by 1982 there were ten schools. The schools, committed to Christian fundamentalism, are run by local churches. The ACE instructional materials cover kindergarten through high school and are inexpensive. According to ACE advertising, working with two non-professionals, one teacher can instruct 40-50 students in one room and with any combination of grades. The curriculum of ACE simplifies the views of the Protestant fundamentalists, and supports prayer, censorship of tests, a strong and traditional family, and corporal punishment. ACE materials also emphasize Biblical orthodoxy and separation from the outside.

Religious Fundamentalists and Other School-Related Issues

Woodward (1993) feels that the religious fundamentalists are determined to dominate the nation's public-school boards and breathe the spirit of God back into the classroom. Guides for workshops were designed to help workshop leaders prepare for and present a workshop for

school board members or candidates in school board elections on the role and function of school board members and on the programs, services, and staff of the state school board association. The manual consists of six sections: an introduction, three sections on planning, presenting, and evaluating the workshop participants. The discussion of planning covers the focus and scope of the workshop, familiarization with relevant materials, and grouping of workshop participants. The presentation section includes sequential descriptions of workshop activities, leader focuses for each activity, and instructions for conducting those activities. Student involvement in the democratic process and understanding of the nature of public can be enhanced through the study of community school board elections.

Laurence Barrett claimed that religious fundamentists are gaining power on local school boards and stirring angry debate over gay rights, abortion, cultural diversity and other secular evils. Significant electoral battles have been fought in Idaho, Colorado and Arizona this year. (Smolowe & Barrett, 1993) Another indication of the growth the religious fundamentalists goal of implementing religious ideals into the public schools has occurred in Texas. A group of religious leaders in Texas has organized a coalition called the "War To Restore Volunteer Prayer To Our Public Schools. " The movement's objective is to restore moral values in society through voluntary prayer. The coalition, which was supported by Lloyd Bentsen, U.S. Secretary to the Treasury, is demanding the voluntary exercise of prayers in public schools. ("Texas Clergy Declare War," 1 992)

Several Supreme Court cases appear to have added to the confusion over the role of the public schools in religious matters. One such case involved Rabbi Leslie Gutterman who gave a non-denominational prayer at an eighth-grade public school graduation in Rhode

island. The Court's decision confirmed the separation of church and state in the public schools. (Stafsky, 1 992) The Supreme Court ruled that nonsectarian prayers during a public school graduation ceremony violated First Amendment guarantees of separation of church and state. (Lee v. Weisman, 1992) The 5-4 decision involved a ceremony at Nathan Bishop Middle School in Providence, RI. The decision reinforced the 'Establishment Clause' from the 1947 Everson v Board of Education case. (Everson v. Board of Education, 1947) This was surprising since Justices Rehnquist and White have previously challenged its legal limits. (Cord, 1992) Reports that the first major school-related case before a full complement of the United States Supreme Court were argued on narrow grounds, but hold potential for sweeping changes in education policy. Lewis cites that Lee presented the high court with an inevitable issue over school prayer. (Lewis, 1992)

The Religious Right and the Schools

To bring greater understanding to Christian fundamentalists and the religious conflicts in the schools, Lutz and Wang (l 987) have developed a theory of dissatisfaction that may accurately predict school board elections. According to the theory, only when people are dissatisfied enough will they become politically active. Further understanding came from a survey of Republican contributors. Jelen and Wilcox (l 992) found that the support for the Christian right is based on the effects of religious self-identification. The authors feel that the appeal self-identified fundamentalists is anchored in the charismatic identifiers of leaders like Jerry Falwell, Pat Robertson, Robert Simonds, and Ralph Reed.

The public schools are experiencing in the tenth year of a fever of concern about the quality of American education that has been unparalleled in the history of the republic. It

can be dated since the 1983 report, *A Nation at Risk*, though of course, the concern was evident for decades before. (National Commission on Excellence in Education, 1983) Two presidents, President George Bush and President Bill Clinton, have set national goals for American education. (Time. (1991), (Pitsch, 1994) The concern about national goals stimulates a flow of information and analysts that tells much about American education ,but it does little to promote agreement by national groups. The fundamental Christian groups believe that they must take charge of the schools and the future. ("Urban Education,"l 992)

Some observers concluded that the religious right has little chance of achieving its goals for public education. It is because of their distrust of institutions and the dependence on the whims of their leaders. On the other hand, The Christian fundamentalists are potentially large, about 50 million evangelical Protestants and conservative Catholics, and their groups are already more sharply focused on strategy and goals. They are seeking seats on hundreds of school boards,municipal councils and other low-level points in politics The Southern Baptist Convention, with 15 million members, is controlled by conservatives is also eager to play its own role in public life and school life. (Fineman, 1993)

Others believe religious fundamentalism with a conservative or a liberal bent is harmful for the public schools. Stephen Bates believes neither Christian conservatives nor Christian liberals are supporters of the public schools. He feels that both groups do harm the public schools, but they do it in different ways. (Bates, 1993)

Religious Diversity in the Schools - The Case of Kiryas Joel

Dianne Koenig Vickers

Kiryas Joel is an incorporated village of Satmar Hasidim located within the municipal boundaries of Monroe, New York. This ultraconservative Hasidic enclave has 12,000 people in the square-mile village (Goldman, July 8, 1993; Kaplan, 1993); 5,300 of this population are school aged children. This Orange County village, Kiryas Joel, is approximately 45 miles northwest of New York City (Batutis, Sept., 1986).

Historically, the ultrareligious, insular temperament of the Satmar Hasidim can be partially traced to the sect's reaction to late nineteenth century European efforts toward Jewish assimilation (Kadetsky, 1991). Due to continuing assimilation fears, the Satmar Hasidim are still vociferously and fanatically anti-Zionist (Harris, 1985).

Another factor in the sect's xenophobia was rooted in its isolated geographical origins in the Transylvanian and Carpathian mountains of Eastern Europe, where change was usually greeted with fear, suspicion, and rejection (Batutis, Sept., 1986; Kadetsky, 1991). The sect's reaction to change and the world today was total immersion in strict religious practices and an enforced isolation from modern life and society (Kadetsky, 1991).

In 1945 the Satmar Hasidim, who survived Auschwitz, immigrated to the United States. This near annihilation further reinforced the sect's belief in strict and total adherence to religious laws, and social isolation from the modern world. Following the Grand Rebbe, their spiritual leader, the Satmar Hasidim settled in Brooklyn, New York (Harris, 1985; Kadetsky, 1991).

In 1977 a group of Satmar Hasidim migrated to the more rural sections of Westchester,

Rockland, and Orange counties of New York to raise their children and practice their ultraconservative Jewish religion in an isolated environment. The Orange county Satmars founded Kiryas Joel (Batutis, Sept., 1986; Kaplan, 1993).

This ultraorthodox, ultraconservative religious group practices dietary, clothing, and social customs that are not within the expected social norms. The enclave's members eat only kosher foods and speak Yiddish. Television, radio and English language publications are not in use or allowed, although telephones, automobiles, and postal service are allowed (Board of Education of the Monroe-Woodbury Central School District v. Wieder, 1988; Goldman, July 8, 1993; Kaplan, 1993).

Males are segregated from females in educational, religious and most social settings (Board of Education of Monroe-Woodbury Central School District v. Wieder, 1988; Denniston, 1993). The boys go to the United Talmudic Academy, while the girls attend Bais Rochel (Browne, 1988). Distinctive clothing is worn. Men wear beards, brimmed hats, side curls, and prayer shawls, while women shave and cover their heads and wear long dresses (Kaplan, 1993). All of these customs and practices lead to social rejection and stigmatization of the students by other nonJewish students (Goldman, July 7, 1993).

Prior to 1986 special educational services were provided by the Monroe-Woodbury School District at a neutral site in an annex adjacent to Bais Rochel, a Kiryas Joel yeshiva (Board of Education v. Wieder, 1988, 1987). However, several problems arose due in part to the customs and beliefs of the enclave. The male students refused to ride on school buses driven by female drivers (Bollenbach v. Monroe-Woodbury Central School District, 1987). Parents refused to allow their children to sit in classes with non-Hasidic students. The

Monroe-Woodbury Central School District refused to provide handicapped educational services at any site other than a public school facility (Savage, 1993), due to the Supreme Court in Aguilar v. Felton (1985). In this case the Court decided that the practice of having public school teachers work at religious schools was unconstitutional (Greenhouse, 1993; Biskupic, 1993).

In 1989 the Kiryas Joel members asked for public education for more than 200 children too handicapped to function in private Jewish day schools (Greenhouse, 1993; Associated Press, July 27, 1993). The children's handicaps include mental retardation; speech, hearing, and language impairments; cerebral palsy; Down's syndrome; spina bifida; learning disabilities and emotional disorders (Browne, 1988; Board of Education of Monroe-Woodbury Central School District v. Wieder, 1988). The parents sought public education in their enclave, because they wished to shelter their children from the world. The parents believed their children would be ostracized and mocked because of their distinctive clothing, manners, and religious and dietary customs (Goldman, July 7, 1993; Steinberg, 1993). The parents also believed the children suffered panic, fear, and trauma from leaving their own community and being with children whose ways were so different from their own (Biskupic, 1993; Olivo, 1993).

In contrast, Monroe-Woodbury school district officials stated that the Hasidic children who actually attended the public school handicapped programs had made progress (Browne, 1988). The school district also provided Yiddish-speaking aides and bilingual reports for the parents. P.L. 94-142 requires that these handicapped children be in the least restrictive environment, but according to parents these children are not a part of the sibling community,

and not a part of the public school community either (Goldman, July 8, 1993). Every child needs to belong, and needs to be accepted, and handicapped children are no different according to the Kiryas Joel parents (Steinberg, 1993).

In response to requests and public pressure, in 1989 the New York state legislature, under chapter 748, created the Kiryas Joel Village Public School District inside the religious enclave (Grumet v. Board of Education, 1992). The special school district receives local tax revenues and state funds (Goldman, July 7, 1993). This special school district is governed by an elected board, all of whom are Hasidic Jews (Savage, 1993; Greenhouse, 1993). The purpose for the new school district is to provide the public education to which the village's handicapped youngsters are legally entitled. The public school has a secular curriculum, is coeducational, and the teachers are not members of Kiryas Joel's enclave (Greenhouse, 1993). The teachers are different sexes, races, and religions; they are public school teachers (Goldman, July 7, 1993). The principal is not Hasidic, and there is no religious instruction (Savage, 1993). The principal,superintendent, and teachers are public employees (Biskupic, 1993).

The creation of this new school district was designed to give the Satmar Hasidim public education funds to educate their special needs children (Kaplan, 1993). With a 1979 per capita income of $1,535, and 8-12 children per Hasidic family (Batutis, July, 1986), special education yeshivas were too expensive for the Hasidim to fund (Kaplan, 1993).

According to parents, having the special school district in the enclave serves to alleviate the stigma of disability within the community. This community places a high value on intellect, academic achievement, and conformity. With the new school the community does

not feel ashamed anymore, because the children are getting the educational services they need (Goldman, July 8,1993).

This special school district provides educational services to students other than full-time handicapped students. Part-time remedial reading instruction is provided for approximately 400 students who attend the Jewish day schools or yeshivas. The remedial educational services are provided in portable classrooms situated outside the enclave's yeshivas (Goldman, July 7, 1993).

As a result of the Bollenbach court case (1987), an additional service is provided by the special school district in the transportation of 5,000 yeshiva students as per the court's judgment (Goldman, July 7, 1993). While the curriculum and instruction in the Kiryas Joel Village School are secular and the classes are coeducational, Louis Grumet, the executive director of the New York State School Boards Association, has reservations about the school's intent and instruction (Grumet v. Board of Education, 1992; Goldman, July 7, 1993; Biskupic, 1993; Greenhouse, 1993). According to Grumet "the fact that they have not chosen to inculcate religious values at this time is not important, religious instruction could start tomorrow morning" (Goldman, July 7, 1993).

Additional concerns of Grumet relate to the legal implications of a separate school district formed for a specific religious group's benefit. According to Grumet, if a state legislature can legally create a school district to serve the needs of one particular religious group, the country will have many state-created and state-funded religious schools. Schools like this will be in direct violation of separation of church and state (Grumet v. New York, 1992; Grumet v. School Board, 1992; Biskupic, 1993; Goldman, July 7, 8, 1993).

The dispute involving the handicapped Satmar Hasidic students developed because of Public Law 94-142, which requires public districts to provide special education for all of the disabled children within their borders (Savage, 1993), and the separation of church and state as interpreted by the Establishment Clause of the First Amendment to the United States Constitution (Browne, 1988; Denniston, 1993). The real question is not about funding the needed special education programs and services, but where these special education programs and services will be provided in a parochial setting, or a secular setting, or a neutral setting (Browne, 1988; Grumet v. Board of Education, 1992).

There are six basic court cases directly from the Kiryas Joel question - three cases of Board of Education of Monroe-Woodbury Central School District v. Abraham Wieder; Grumet v. New York State Education Department; Grumet v. Board of Education of the Kiryas Joel Village School District, and Board of Education of the Kiryas Joel Village School District v. Grumet. On February 10, 1987 in Board of Education of the Monroe-Woodbury Central School District v. Wieder the Supreme Court of Orange County New York partially held for the defendants, when it ordered that Monroe-Woodbury Central School District should provide educational and related therapeutic services to the handicapped Hasidic children at a neutral site other than a public school, as long as the site was not physically or educationally identified with the sect's private religious schools and religious instruction. This decision was based upon the legal mandate to provide educational services to all handicapped students in the least restrictive environment.

On December 28, 1987 in Board of Education of the Monroe-Woodbury Central School District v. Wieder ruled for the plaintiffs stating that providing educational services to the

handicapped Hasidic children in a neutral environment is an advancement of their religion at government and taxpayers' expense. This special legal and resulting financial consideration for this religious group violates the Establishment Clause of both the State and Federal Constitutions (Board of Education v. Wieder, A.D. 2 Dept. 1987).

On July 12, 1988 in Board of Education of Monroe-Woodbury Central School District v. Abraham Wieder the Monroe-Woodbury School District brought a suit because it lacked the "legal authority" to provide special education and related services to handicapped children, except within regular classes of its public schools. The Kiryas Joel parents, as represented by Abraham Wieder, contended that not providing special educational services in the least restrictive environment of Kiryas Joel was denying the students their constitutional right to an appropriate education. The judges decided: that the law for providing educational services to handicapped students does not require the local school board to provide services available to private school handicapped students only in regular public school classes and programs or keep local school boards from providing services elsewhere. The second decision was that parents of the handicapped children and the children themselves had not been denied their constitutional rights by public school placements of private school students for special education programs and services (Board of Education v.Wieder, 1988). The New York State Court of Appeals judged that both sides were wrong and should work out a solution (Browne, 1988;Board of Education v. Wieder, 1988).

On January 22, 1992 in Grumet v. New York State Education Department, taxpayers and the New York School Boards Association with Louis Grumet as executive director challenged the constitutionality of the New York law which created the Kiryas Joel Village

School District and won this round in the continuing litigation saga. The New York Supreme Court ruled that the law creating a public school district whose sole purpose was for educating private school handicapped students was in violation of the Establishment Clause of the First Amendment of the United States Constitution, as well as the New York state constitution (Grumet v. New York, 1992). On December 31, 1992 in Grumet v. Board of Education of the Kiryas Joel Village School District the Appellate Division of the New York Supreme Court reaffirmed that the New York law, chapter 748, creating the Kiryas Joel Village School District was unconstitutional because it violated the Establishment clause on the state level. Even if the law had a secular purpose, the law still had the primary purpose or principal of advancing religion and was therefore unconstitutional on both the state and the federal levels (Grumet v. Board of Education, 1992).

On July 6, 1993 the New York State Court of Appeals ruled 4-to-2 that the creation of the Kiryas Joel School District in Orange County, New York was an illegal endorsement of religion by government (Associated Press, July 7, 1993; Goldman, July 7, 1993). The judges writing for the majority stated that the law creating the special school district yielded to the demands of a religious community with separatists beliefs, and was an unique creation for a special legal interest, which amounted to"de Jure segregation" in the name of special education (Greenhouse,1993).

Furthermore, the New York state court said that the law creating the Kiryas Joel School District designed "a symbolic union of government and religion," which gave the impression that the government "endorsed the Satmar Hasidic community's religious choices and disapproved of other faith preferences" (Denniston,1993; Biskupic, 1993). Instead of having a

special school district, the handicapped students of Kiryas Joel should be educated in the special schools of the surrounding school districts (Goldman,July 8, 1993).

On November 29, 1993 after Board of Education of the Kiryas Joel Village School District v. Grumet, the United States Supreme Court agreed to review the constitutionality of the creation of the Kiryas Joel School District in Orange County, New York (Steinberg, 1993). The Court has agreed to allow Kiryas Joel to continuing operating, while the appeal is pending (Biskupic, 1993). The Court should decide the case by mid-1994.

There are related court cases which impact on the Kiryas Joel situation. In Wolman v. Walter (1977) the Court ruled that public school funds could not be used to provide aid for instructional kits, materials and equipment; and field trip monies and transportation for nonpublic sectarian schools (Wolman v. Walter, 1977; Worona, 1992).

In Aguilar v. Felton (1985) the Court ruled that public school employees could not teach in private or parochial schools as this was a violation of the Establishment Clause of the First Amendment (Aguilar v. Felton, 1985; Savage, 1993; Worona, 1992). In School District of the City of Grand Rapids v. Ball (1985) the Court held that public school monies, programs, and employees used to provide during the school day instruction to private school students at a private school violate the Establishment Clause of the First Amendment as well as the Fourteenth Amendment (Grand Rapids School District v. Ball, 1985;Worona, 1992).

In Bollenbach v. Monroe-Woodbury Central School District (1987) the male Hasidic students would not ride a bus driven by female drivers. The school district rotated the bus schedule so that male drivers, some with less seniority than female drivers, were scheduled to drive the male students to their yeshiva at parental request. The Court ruled that having male

drivers take over the selected routes, as per parental request, was in violation of the First Amendment, as it advanced religious beliefs. Also, the women bus drivers' rights to the select routes were violated under Title VII of the Civil Rights Act of 1964 (Bollenbach v.Monroe-Woodbury Central School District, 1987).

In Lemon v. Kurtzman (1971) the Court decided that Rhode Island's Supplemental Salary Act of 1969 which authorized a 15% salary increase to those nonpublic teachers of secular subjects in parochial and private secular schools was in violation of the Establishment or Free Exercise Clause of the First Amendment due to excessive entanglement between government and church, and therefore unconstitutional (Lemon v. Kurtzman, 1971).

Second, the Court also ruled that the Pennsylvania Nonpublic Elementary and Secondary Act of 1968 which allowed purchase of secular textbooks, instructional materials, and teachers' salaries from public funds for private and parochial schools to be unconstitutional. As the 1968 law was in violation of the Establishment or Free Exercise Clause of the First Amendment due to excessive entanglement between the government and religion (Lemon v. Kurtzman, 1971).

In Lemon v. Kurtzman the Court (Mason, 1992) held that the Establishment Clause mandates that neither the federal government nor any state government may enact a law which:

1. Has a religious purpose;
2. Will unduly entangle the government with religion; or
3. Has a primary effect that either advances or inhibits religion.

From the Court's decisions on Lemon v. Kurtzman in 1971 the Court has devised a three-pronged test to determine entanglement between religion and government (Mason, 1992). This is generally called the Lemon test (Lemon v. Kurtzman, 1971; Biskupic, 1993; Greenhouse, 1993; Savage; 1993). The "Lemon test" is developed and applied upon a broad interpretation of the Establishment Clause (Mason, 1992).

The First Prong: A Religious Purpose is believed to be the"threshold" or beginning requirement for a law to be scrutinized concerning the establishment of religion by the government (Mason,1992; Egle, 1992; Olivo, 1993). This prong is to build a "wall of separation" between religion and the government such that no government may enact laws to "aid religion" (Mason, 1992; Egle, 1992). The Second Prong: Entanglement poses two problems. First, active government involvement in the carrying on of religious activities "erodes respect for government and degrades religion." Second, state-sponsored religious activities may tend to create irreparable political divisions along religious lines, in direct opposition to the intent of the Constitution's writers. The "test" is one of "degree" of the entanglement (Mason, 1992, Egle, 1992). The Third Prong: A Primary effect that advances or inhibits religion bears a close resemblance to civil rights laws. In many Establishment Clause cases the Court has invalidated laws that do not openly mention religion, when if in fact the effect of the law would primarily advance religion (Mason, 1992). Not all laws that aid religion are found invalid, and therefore unconstitutional. The Court has qualified the effects prong by upholding laws having a "primarily secular purpose," even if they do also advance religion (Mason, 1992; Egle, 1992).

The major issue with the Kiryas Joel case is that public school funds and employees are

being utilized to educate private school handicapped students in a school district created solely for these students' education. The United States Supreme Court's willingness to review this case will allow the Court to revisit the major legal criteria for judging the separation of church and state under the Establishment Clause of the First Amendment, Lemon v. Kurtzman (1971). When the Lemon case is revisited, the three-pronged Lemon test also will be revisited by Bader, O'Connor, Scalia, Kennedy, and Thomas in the case of Kiryas Joel.

Religious Diversity in the Schools-

The Case of Bishop Knox at Wingfield High School

Elsie Brown

Worship in the nation's schools, which has been one of the hallmarks of the general cultural establishment of religion, received a serious blow when, on June 25, 1962 and again on June 17, 1963, the Supreme Court of the United States handed down decisions affecting devotional exercises in the public schools. The 1962 decision forbade the use in the public schools of a prayer sponsored by the New York State Board of Regents.

(Swomley, Jr., 1968)

To sum up the problems that exist, four kinds of questions are developed in consideration of "Religion and Public Education." For persons committed to religion, the first is the most significant:

1. Can religious people join in support and patronage of schools not under control of church? Does a theological position require separate schools under control of the church authorities?

2. The second question is that of educational philosophy or method. How can our religious needs best be served by a separate or a common school?

3. How should the common school, tax supported, serve parents of different religious faiths? How shall public schools deal with religion?

4. Shall tax moneys be used to support schools operated by churches?

(Brickman and Lehrer, 1961)

Could the public schools be heading for trouble? Some might agree, especially if the

leaders of the religious right have their way and dominate the nation's public-school boards. The religious leaders' main goal is to breathe the spirit of God back into the classroom. Of course, this has caused great concern for the school superintendents, alerted teachers unions and sent the ideological opponents back to the barricades. This concern seems to be minimal, because not enough evidence has been provided to show that the religious right will be able to capture the nation's schools.

Wingfield High School and Prayer in School

If religion is allowed back into the public school system, who is to determine the guidelines? For example, was Principal Bishop Knox of Wingfield School wrong for allowing student-led prayers to take place at the high school? Were the students wrong for walking out in support of him? Or was the Jackson Mississippi School Board wrong for firing the principal who allowed the students to read a prayer over the school's intercom system?

In Principal Knox's case, he agreed and allowed the student-led prayer to take place since the majority of the students in Wingfield high school voted in favor of it. The results of the survey that was conducted by secret ballot, was 490-96 to allow the prayer. Mr. Knox felt that the students voted for it, they were within their rights to read it. According to the court system, student-led prayers are constitutional if they are nonsectarian and nonproselytizing. That was Principal Knox's point of view. He based his decision on the opinion of the United States Court of Appeals for the Fifth Circuit that allowed student-initiated and student-led prayers at a public high school graduation (Walsh, 1993).

Even though Principal Knox had been advised by the school district lawyer that prayer

would violate the United States Constitution's ban on government establishment of religion, he was convinced that he had made the right decision when he allowed the students to say a prayer over the intercom system (Walsh, 1993).

These events that would cost him his job unfolded mildly enough, when student body president Kim Fails and others came asking for permission to read a prayer during morning announcements (Hayden, 1993). Not necessarily responding positively or negatively to the situation, Principal Knox simply provided the students with information on the legal issues. From this, high school student Kim was able to develop a prayer that she found in a government class textbook. This prayer was modeled after the one that was being used to open sessions of the Congress of the United States. The prayer consisted of the following words, "Almighty God, we ask that you bless our parents, teachers, and country throughout the day. In your name, we pray. Amen." (Hayden, 1993)

The decision was made to place Principal Knox on administrative leave and to later dismiss him for insubordination. The firing was not based on the fact that he allowed the prayers, but for his insubordination and neglect of duty when he refused to follow legal advice and stop the practice.

Many disagreed with his dismissal. Principal Knox received over-whelming support from many people, and he even received a job offer outside the schools. The support included the governor, state lawmakers, friends, but most of all students at Wingfield High and others involved with the schools. They met to discuss ways to generate support and awareness of the prayer issue. Some patrons were even seeking advice from lawyers on any possible legal action that could be taken against the system for denying prayer in the schools.

The governor appeared at several rallies and on television showing in support of the student-led prayers in public schools. State lawmakers even went as far as proposing legislation to cut funds to districts that bar voluntary student prayers. The most important and significant support came from the students. These students protested the dismissal of Principal Knox by planning a meeting time for students and parents to rally outside the capitol. Some students even staged a walkout in which suspensions were issued to those who refused to return to class. Others were willing to cut classes to attend the marches. This support was recognized as being so contagious that it began to spread outside of the Jackson area, including many school districts within the State of Mississippi.

This case has not been settled and is currently being decided on by the School District of Jackson, Mississippi. Other cases are being taken into consideration before the final decision will be made.

Religion and Schooling

The religious grounding of early schooling in America cannot be denied, neither can the history of religious influences on the conduct of our governmental functions and our school practices. In the nineteenth century, however, protests against the prevailing Complaints about protestant religious influence in the public schools were lodged by Catholics, Jews, non-believers, and other groups, complained about number of issues that revolve around interpretations of the "establishment of religion" clause and the "free exercise of religion" clause of the Constitution. (Noll, 1989)

At both the legislative and judicial levels, attempts have been made in the 1980s to

secure an official place in public education for voluntary prayer, movements of silent meditation, and creationism in the science curriculum. Religious issues such as censorship of textbooks and other school materials, access to facilities by religious groups, and the right of parents to withdraw their children from instruction seemed to be morally offensive and damaging. have also been promoted. Humanists who are neither religious or non-religious find a good deal of distortion in the recent attacks on "secular humanism " in school. Humanists argue that the materials used in the schools are consistent with the historical goals of character development while also being in tune with the realities of the present times. (Noll, 1989)

Some feel that the public schools are places where young people, who have different beliefs and different backgrounds, can come together and learn tolerance. The public is also concerned that parental veto power will undermine school decision-making and impair school effectiveness. Then, there are some who contend that parents' liberties with regard to a child's education is a fundamental right, which is considered to be a lasting American tradition.

In May 1982, President Reagan advocated adoption of a constitutional amendment to permit organized prayer in public schools. The text of the message that President Reagan submitted about prayers in public institutions Congress follows:

> To The Congress of the United States:
>
> I have attached for your consideration a proposed constitutional amendment to restore the simple freedom of our citizens to offer prayer in our

> public schools and institutions. The public expression through prayers of our faith in God is a fundamental part of our American heritage and a privilege which should not be excluded by law from any American school, public or private. (Yudof, Kirp, Geel, Levin, 1987).

Congress has been bitterly divided in efforts to pass legislation aimed either at amending the Constitution or stripping the Supreme Court and other federal courts of jurisdiction to decide cases about prayers in the public schools. (Noll, 1989)

Disagreements have come about because of the vagueness of the Supreme Court decision as it relates to constitutional laws. From this vagueness, public school educators have been accused of violating the First Amendment when they either allowed or disallowed the posting of the Ten Commandments, or when they scheduled a meeting on school property of a student religious club, or even a moment of silent meditation and/or prayer. The Equal Access Act of 1984 (Public Law 98-377) prohibits public high schools receiving federal aid from preventing voluntary student groups, including religious ones, from meeting in school facilities before and after class hours or during a club period, if other extracurricular groups have access (Noll, 1989).

The United States Supreme Court continues to uphold the ruling in which school districts must give religious groups the same access to school facilities after hours that are afforded to other community organizations. They have also let stand an appeals-court ruling that approved student-initiated and student-led invocations and benedictions at school events.

Since the ruling, teachers have been very careful about discussing religion with a student on school grounds during the school day. This means that teachers cannot in any form organize or participate in student religious activities on school grounds during the school day. However, teachers may be able to discuss religion only if it is in a neutral manner, and only if the religion is relevant to secular school activities. They can neither endorse nor criticize any particular religious beliefs.

In some instances, conflicts have been the results of the free exercise clause, in which students have objected to a variety of instructional materials and methods that were being used in the schools. They ranged from textbooks, to instructional movies, all the way to the wearing of a particular clothing. In this case, to keep down the unnecessary conflicts between the school's educational interests and the student's free exercise right, alternative materials or methods could be used to achieve the same educational goal. That way the student may be excused from using the material or method in question.

Religion should be allowed in the public schools, providing the beliefs are not being forced on others. The rulings have been clearly stated that student-initiated and student-led prayers are constitutional and should be allowed in the public schools. Many would agree with Principal Knox when he stated, "Being able to live by what I consider things worthy to live by and having peace of mind-there are some things more important than a job or career, I don't regret at all allowing the students to do what they did." (John, 1993)

Survey at Robert E. Howard Middle School.

A survey (See Appendix 1, Student Survey) that was similar to the one conducted at Wingfield High School in Jackson, Mississippi was completed by the students at Robert E. Howard Middle School., Orangeburg, South Carolina. This survey was taken in order to understand the feelings about student-led prayer of those who attended this particular middle school.

The results (See Appendix 2, Results of the Student Survey) were computed so that a comparison could be made between grade levels. The final results revealed that the majority of the students who completed the survey agreed in favor of having a student-led prayer read over the intercom system each morning. A total of 580 students completed the survey. The results, which focused on the students and their grade levels, were 386-194 to allow the prayer. This means that 67% voted *Yes* and 37% voted *No*. Then, these results were analyzed by grade levels. There were 171 fifth grade students, out of that, 113 (66%) voted *Yes* and 58 (34%) *No*. At the next grade level, 89 (58%) six graders out of 153 were in favor of the prayer, while 64 (42%) were against it. This grade level showed the highest percentage involving those who voted against the prayer. The seventh graders with a total of 127 voting, ended with 90 (71%) in favor and 37 (29%) against it. The last grade level, representing the oldest students at the school agreed closely with the seventh graders. These eighth graders were in support of allowing the prayer to be read. There were 129 students, 94 (73%) voted *Yes*, whereas 35 (27%) voted *No*.

Some would agree that as the students moved up to a higher grade level that they would be totally against having the prayer at school. As a matter of fact, it was surprising to see

the opposite. The older students (seventh and eighth graders) agreed with the younger ones (fifth and sixth graders). The final results showed that each grade level received a majority vote, which was being in favor of having the prayer read over the intercom system.

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Appendix 1: Student Survey

ARE YOU IN FAVOR OF HAVING A STUDENT-LED PRAYER READ OVER THE INTERCOM SYSTEM EACH MORNING?

YES_____ NO_____

THANKS

Appendix 2: Results of the Student Survey

ROBERT E. HOWARD MIDDLE SCHOOL

SURVEY RESULTS

SURVEY RESULTS FROM 580 STUDENTS

YES - 67%	N0 - 33%
(386)	(194)

GRADE LEVEL RESULTS

5TH GRADE	6TH GRADE	7TH GRADE	8TH GRADE
171	153	127	129

YES - 66%	YES - 58%	YES - 71%	YES - 73%
(113)	(89)	(90)	(94)
NO - 34%	NO - 42%	NO - 29%	NO - 27%
(58)	(64)	(37)	(35)